

State plan approved under the Vocational Rehabilitation Act.

(2) *Widower's insurance beneficiary.* A deduction is made from any benefits payable to an individual entitled to a widower's insurance benefit based on disability for each month in which he is under age 60 (age 62 for months prior to January 1973) and refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act.

(d) *Amount of deduction.* The amount deducted from an individual's benefit for a month under the provisions of paragraph (a), (b), or (c) of this section is an amount equal to the benefit otherwise payable for that month.

(e) *Good cause for refusal of rehabilitation services.* An individual may refuse to accept rehabilitation services (for the purposes of paragraph (a), (b), or (c) of this section) if his refusal is based on good cause. In determining whether an individual has good cause for refusing rehabilitation services, we will take into account any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) the individual may have which may have caused the individual to refuse such services. We also consider other factors that may have caused an individual to refuse such services. For example, an individual has good cause for refusing rehabilitation services where:

(1) The individual is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and care of any physical or mental impairment, on prayer or spiritual means through the application and use of the tenets or teachings of such church or sect; and

(2) His refusal to accept rehabilitation services was due solely to his adherence to the teachings or tenets of his church or sect.

[32 FR 19159, Dec. 20, 1967, as amended at 38 FR 9429, Apr. 16, 1973; 59 FR 1633, Jan. 12, 1994]

§ 404.423 Manner of making deductions.

Deductions provided for in §§ 404.415, 404.417, 404.421, and 404.422 (as modified

in § 404.458) are made by withholding benefits (in whole or in part, depending upon the amount to be withheld) for each month in which an event causing a deduction occurred. If the amount to be deducted is not withheld from the benefits payable in the month in which the event causing the deduction occurred, such amount constitutes a *deduction overpayment* and is subject to adjustment or recovery in accordance with the provisions of subpart F of this part.

§ 404.424 Total amount of deductions where more than one deduction event occurs in a month.

If more than one of the deduction events specified in §§ 404.415, 404.417, and 404.421 occurred in any 1 month, each of which would occasion a deduction equal to the benefit for such month, only an amount equal to such benefit is deducted.

§ 404.425 Total amount of deductions where deduction events occur in more than 1 month.

If a deduction event described in §§ 404.415, 404.417, 404.421, and 404.422 occurs in more than 1 month, the total amount deducted from an individual's benefits is equal to the sum of the deductions for all months in which any such event occurred.

§ 404.428 Earnings in a taxable year.

(a) *General.* (1) In applying the annual earnings test (see § 404.415(a)) under this subpart, all of a beneficiary's earnings (as defined in § 404.429) for all months of the beneficiary's taxable year are used even though the individual may not be entitled to benefits during all months of the taxable year. (See, however, § 404.430 for the rule which applies to earnings of a beneficiary who attains age 72 during the taxable year (age 70 for months after December 1982)).

(2) The taxable year of an employee is presumed to be a calendar year until it is shown to the satisfaction of the Social Security Administration that the individual has a different taxable year. A self-employed individual's taxable year is a calendar year unless the individual has a different taxable year

for the purposes of subtitle A of the Internal Revenue Code of 1954. In either case, the number of months in a taxable year is not affected by—(i) The time a claim for social security benefits is filed, (ii) attainment of any particular age, (iii) marriage or the termination of marriage, or (iv) adoption. For beneficiaries who die on or before November 10, 1988, a taxable year ends with the month of the death of the beneficiary. The month of death is counted as a month of the deceased beneficiary's taxable year in determining whether the beneficiary had excess earnings for the year under § 404.430. For beneficiaries who die after November 10, 1988, the number of months used in determining whether the beneficiary had excess earnings for the year under § 404.430 is 12.

(b) *When derived.* Wages as defined in § 404.429(c) are derived and includable as earnings for the months and year in which the beneficiary rendered the services. Net earnings from self-employment, or net losses therefrom, are derived, or incurred, and are includable as earnings or losses, in the year for which such earnings or losses are reportable for Federal income tax purposes.

[32 FR 19159, Dec. 20, 1967, as amended at 45 FR 48116, July 18, 1980; 48 FR 4282, Jan. 31, 1983; 55 FR 37461, Sept. 12, 1990]

§ 404.429 Earnings; defined.

(a) *General.* When the term *earnings* is used in this subpart other than as a part of the phrase *net earnings from self-employment*, it means an individual's earnings for a taxable year after 1954. It includes the sum of his wages for services rendered in such year, and his net earnings from self-employment for the taxable year, minus any net loss from self-employment for the same taxable year.

(b) *Net earnings from self-employment; net loss from self-employment.* An individual's net earnings from self-employment and his net loss from self-employment are determined under the provisions in subpart K of this part except that:

(1) For the purposes of this section, the provisions in subpart K of this part shall not apply that exclude from the

definition of *trade or business* the following occupations:

(i) The performance of the functions of a public office;

(ii) The performance of a service of a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by the order;

(iii) The performance of service by an individual in the exercise of his profession as a Christian Science practitioner;

(iv) For taxable years ending before 1965, the performance by an individual in the exercise of his profession as a doctor of medicine;

(v) For taxable years ending before 1956, the performance of service by an individual in the exercise of his profession as a lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, or optometrist.

(2) For the sole purpose of the earnings test under this subpart—

(i) An individual who has attained age 65 on or before the last day of his or her taxable year shall have excluded from his or her gross earnings from self-employment, royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained age 65 if the copyright or patent is on property created by his or her own personal efforts; and

(ii) An individual entitled to insurance benefits, under title II of the Act, other than disability insurance benefits or child's insurance benefits payable by reason of being under a disability, shall have excluded from gross earnings for any year after 1977 any self-employment income received in a year after his or her initial year of entitlement that is not attributable to services performed after the first month he or she became entitled to benefits. As used in this paragraph (b)(2)(ii) of this section, *services* means any significant work activity performed by the individual in the operation or management of a trade, profession, or business which can be related to the income received. Such services will be termed *significant services*. Where a portion of the income received in a year is not related to any significant services performed after the